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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,464	10/15/2003	Jean-Claude Hauer	Q74306	4684

23373 7590 03/28/2005

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SUITE 800
WASHINGTON, DC 20037

EXAMINER

GREEN, CHRISTY MARIE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/684,464

Applicant(s)

HAUER ET AL.

Examiner

Christy M Green

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/16/05</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Attached figure</u> . |

DETAILED ACTION

This is a first office action for serial number 10/684464, entitled Closing Device, filed on October 15, 2003.

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

There appears to be 3 different claim 16's. The examiner is not sure what numbers the two claim 16's following the initial claim 16 are intended to be, the dependency of the following claims. Since the claim limitations within all three claim 16's appear to be the same, the examiner will examine them accordingly, however Misnumbered claims 16 should be either canceled or renumbered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "of the type" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "of the type"), thereby rendering the scope of the claim(s) unascertainable.

Claim 5 recites the limitation "the movable element" in 2. There is insufficient antecedent basis for this limitation in the claim. This limitation was not previously stated within the claim, and therefore lacks antecedent basis, until further clarification, the examiner will interpret the claim accordingly.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-9, 12-14, 16, 17, 19 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Lovatt, US patent # 2,012,885.

Lovatt discloses the claimed invention a device (figures 1 and 2) comprising a frame (3) that delimits a pass-through access opening (2) suitable for receiving a cover (8,9) and which includes a frame hinge knuckle (43), the frame hinge knuckle (43) having a hinge surface (28) and a pass-through hinge knuckle opening (29), the frame (3) having an outer side and an inner side (figures 5 and 17), characterized in that the device also comprises an inserted plug (48) positioned in a recess (33) of the frame hinge knuckle (43) located on the inner side of the hinge surface (at 49) and which makes the inner side of the frame hinge knuckle (29) appreciably sealed off from the

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Outside (by 46 and 47 – page 2, column 2, lines 47-48); the plug (48) comprises an exterior side (see attached figure 5), turned toward the hinge surface (28) and means of evacuating dirt (interpreted to be foreign matter through “50” – page 2, lines 47-50) accumulated on the outer side of the plug; the means of evacuating dirt comprise at least one elastically deformable element (at 48) that is movable between a blocking position in which it blocks (figure 2, when doors are closed) the recess (50) and retains the accumulated dirt on the outer side of the plug (48), and a pass-through position (when doors 8, 9 are open – figure 2) in which it opens the recess (50) and allows the dirt to be evacuated from the outer side (page 2, column 2, lines 47-50) toward the inner side of the frame through the hinge knuckle opening (other side of 50); the frame (3) extends along a frame plane (1) and the movable element comprises at least a movable sealing lip (44) bending around an axis (when doors open) positioned parallel to the frame plane (1); the hinge knuckle opening (29) delimits at least a blocking surface (49) of the cover (8,9) in an open position (figure 1); a cover (8, 9)) suitable for closing off the access opening (2), the cover (8,9) being able to be moved between open and closed positions (figure 2) and including a cover knuckle (46, 47) that cooperates with the frame hinge knuckle (43); the cover knuckle (46,47) is suitable for taking the movable element (44) to its pass-through position when the cover (8, 9) is taken to its open position (figure 2) and when the amount of dirt (interpreted to be foreign matter) has exceeded a predetermined threshold; and the device is a manhole (page 1, column 2, lines 21-24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 10, 11, 15, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovatt.

Lovatt discloses the claimed invention as stated above in claim 1, except for the plug is made from an elastically deformable material, particularly of one single piece, and especially of elastomer. Lovatt does however teach that gaskets are made of rubber or elastomer (page 3, column 2, lines 17-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plug to be of the same rubber or elastomer material as taught by Lovatt in order to provide a noiseless structure when the door in the open position (page 3, column 2, lines 17-22).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

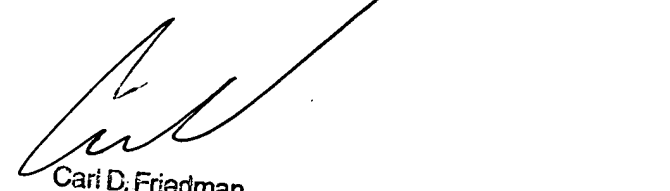
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cg

March 16, 2005


Carl D. Friedman
Supervisory Patent Examiner
Group 3600

Aug. 27, 1935.

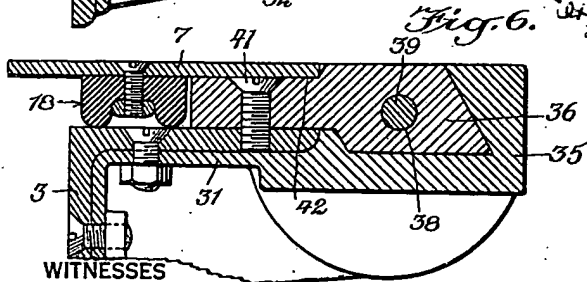
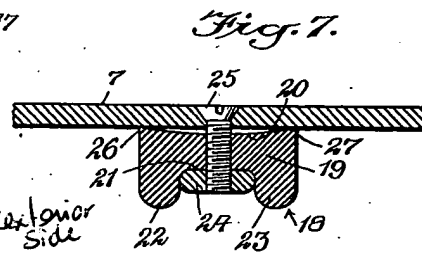
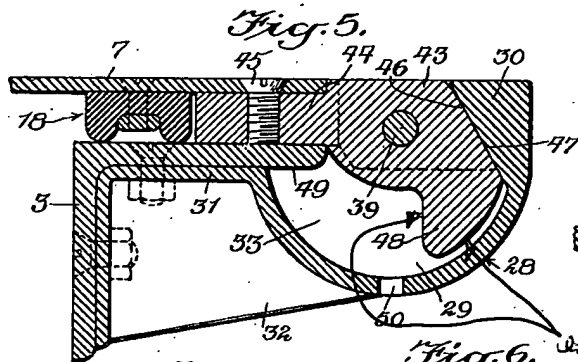
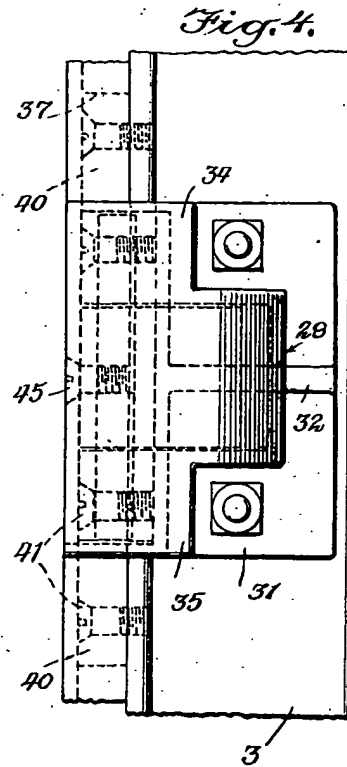
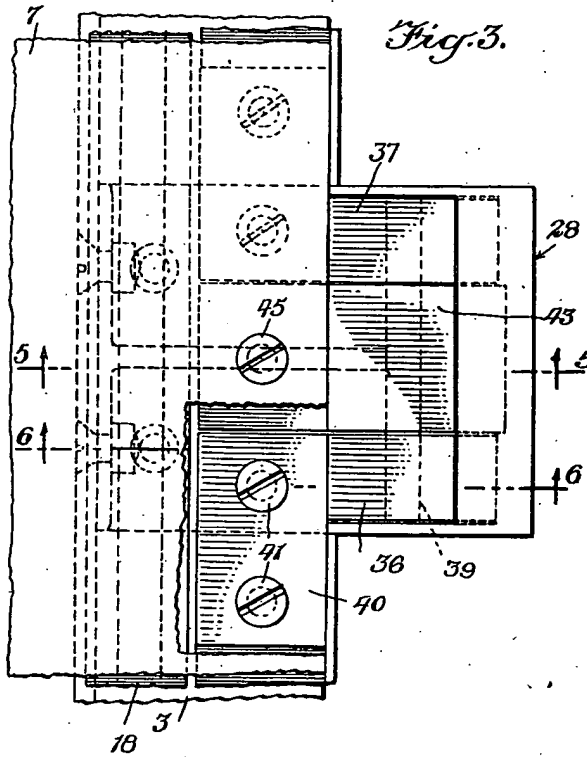
J. W. LOVATT

2,012,885

SIDEWALK DOOR

Filed April 19, 1934

3 Sheets-Sheet 2



WITNESSES

George Maylon
A. L. Ritchie

INVENTOR
John William Lovatt

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Munn, Anderson & Liddy
ATTORNEYS